

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

BUREAU OF SPECIAL OPERATIONS • SPECIAL INVESTIGATIONS DIVISION

GIL GARCETTI • District Attorney
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September 8, 1995

Captain Daniel L. Burt
Los Angeles County Sheriff's Department
Homicide Bureau
4700 Ramona Boulevard
Monterey Park, California 91754-2169

Dear Captain Burt:

Re: S.I.D. File Number: 100-7988/95-0223
L.A.S.D. File Number: 095-17789-1131-057

The Special Investigations Division of the Los Angeles County District Attorney's Office has concluded its investigation and review of the **June 10, 1995 non-fatal** shooting of Leonard Garcia, age 32, which occurred at [redacted] East Avenue H-13, in Lancaster. The deputy involved in the shooting was Los Angeles County Sheriff's **Deputy Michael Holland.**

Our office was notified of the shooting at 3:50 p.m. on June 10, 1995. A view of the shooting scene and interviews of civilian witnesses were conducted by Senior District Attorney Investigator [redacted] and Deputy District Attorney Randall Baron. We have also reviewed a 129-page Officer Involved Shooting Report, received on August 17, 1995.

We have concluded that the actions taken by Deputy Holland on June 10, 1995 were reasonable and legally justified under the theory of self-defense.

Criminal Courts Building
210 West Temple Street
Los Angeles, CA 90012-3275

SUMMARY OF THE FACTS

The following summary is based upon the above mentioned reports and interviews, including voluntary statements made by Deputies Holland and Brown to Los Angeles County Sheriff's Investigators Perry and Bejarano, and the handwritten statement by Leonard Garcia.[1]

At approximately 2:30 p.m. on June 10, 1995 a robbery was committed at Weber's bread store at 375 East Avenue I. The robber was described as a male hispanic in his 20's, wearing a blue shirt and blue pants and clean shaven. He was last seen running from the store carrying a black cash box drawer. Efforts to locate this individual immediately following the robbery were unsuccessful.

At approximately 3:00 p.m. on the same day, Deputies Holland and Brown went to [redacted] East Avenue H-14 to investigate a complaint of possible narcotics activity. This location is less than one mile from Weber's bread store.

While at [redacted] East Avenue H-14, the Deputies detained [redacted] pursuant to their narcotics investigation. [redacted] informed the Deputies that a person matching the description of the robbery suspect had just run into an abandoned apartment at [redacted] East Avenue H-13 carrying what appeared to be a VCR.[2] Deputy Holland went to the abandoned apartment to look for the robbery suspect.

Deputy Brown informed investigator in a voluntary statement, that he remained outside while Deputy Holland entered the abandoned apartment building. Within moments, Deputy Holland radioed that he had located the suspect.

Deputy Brown stated that he immediately ran into the apartment where he heard Deputy Holland say numerous times, "Sheriff's Department! Let me see your hands!" He said that both he and Deputy Holland had their weapons drawn and were using their flashlights to illuminate the interior of the apartment.

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1 There were no percipient witnesses to the shooting. A number of civilian witnesses were interviewed by Sheriff's Investigators and our office regarding what they heard. Nothing in their statements is inconsistent with what was said by the deputies involved or by Garcia.

2 [redacted] was interviewed by Sheriff's Investigators and by members of the District Attorney's Office. He confirmed having informed the deputies that a person had run into the abandoned apartment with what looked like a VCR.

Deputy Brown said that he and Deputy Holland met at the top of the stairway at a doorway to a bedroom. The windows were boarded-up with plywood. The only source of light in the room was the officers' flashlights.

Deputy Holland entered the bedroom first and Deputy Brown entered immediately following. As Deputy Brown shined his flashlight to his left, he saw Garcia standing in a combat-type stance, with both hands extended directly in front of him, in a shooting position. An unknown shiny object was in Garcia's hands.

Deputy Brown said that he immediately backed out of the room to conceal himself. He then heard a single gunshot. When he re-entered the room following the shot, he saw Garcia, still standing, with blood pumping from his chest. As Garcia fell to the floor Deputy Brown saw a pair of chrome pliers on a mattress next to Garcia.

Deputy Holland said that when Deputy Brown illuminated Garcia, he saw Garcia six to seven feet away from him in a semi-crouched position. Garcia's hands were extended and he was pointing a shiny object directly at him. Deputy Holland said that he was in fear for his life and he fired a single round at Garcia. Garcia stumbled backwards and fell to the floor.

On June 11, 1995 at 12:40 a.m., **Leonard Garcia** was advised of his constitutional rights and agreed to speak to Sheriff's investigators. Due to difficulty in speaking, Garcia requested a pad of paper on which to write. He wrote, " I no longer have nothing [sic] to live for. My wife's leaving me and taking my kids Now I know I did wrong by making the officer shoot me but I just couldn't do it myself tell him I'm sorry.[sic]"

Garcia continued to write, "I could tell he was just as scared as I was. I never want [sic] to put him through that again. I wanted the police to come after me and kill me. I knew it was dark enough in there to create a dangerous scene for the police."

All of Garcia's written statements were signed by Garcia and booked into evidence. From the abandoned apartment, one nine-millimeter shell casing, one expended copper jacket slug, one pair of chrome pliers and a cash register drawer was recovered by Sheriff's Criminalist Elizabeth Devine.

Garcia plead Nolo Contendere to one count of Robbery on June 13, 1995 in case number MA010357. He was sentenced to one year in county jail on July 19, 1995.

LEGAL ANALYSIS

California law permits the use of deadly force in one's self-defense if it reasonably appears to the person claiming the right of self-defense that he actually and reasonably believed that he was in imminent danger of great bodily injury or death. People v. Williams (1977) 75 Cal. App. 3d 731.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal. App. 2d 577.

In the present situation, Garcia intentionally set up a situation in which Deputy Holland would believe he was in imminent danger of death. Due to the poor lighting conditions, the failure to respond to commands to show his hands, and the stance Garcia took while holding a shiny object, it was reasonable for Deputy Holland to believe that Garcia was holding a weapon. Based upon this belief, it was therefore reasonable and legally justifiable for him to fire his weapon in self-defense. We are, accordingly, closing our file and will take no further action.

Very truly yours,

GIL GARCETTI
District Attorney

R. DAN MURPHY
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By

RANDALL J. BARON
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(213) 974-2339

c: Deputy Michael Holland #[redacted]